



CASE VA/H-33198

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF

Confirmation No.: 7067

KNAPE ET AL.

Examiner: Scheiner

APPLICATION NO: 09/776,787

Art Unit: 1648

FILED: FEBRUARY 4, 2003

FOR: INACTIVE BOVINE SCOURS VACCINES, PROCESS AND  
METHOD OF PREVENTING BOVINE SCOURS

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

STATEMENT OF PUBLIC AVAILABILITY OF BIOLOGICAL MATERIAL

I, David L. Marks, Registration Number 37,881, am the duly appointed attorney of record for the above referenced patent application.

I, hereby state, that the biological material in the above referenced patent application are rotavirus strains Cody 81-4, G type10 B223, and B641 and have been deposited with American Type Culture Collection, 10801 University Boulevard, Manassas, VA 20109 on May 6, 2004. The ATCC Deposit Numbers are as follows:

rotavirus strain Cody 81-4 – ATCC Deposit Number PTA-5955

rotavirus strain G type10 B223 – ATCC Deposit Number PTA-5956

rotavirus strain B641 – ATCC Deposit Number PTA-5957

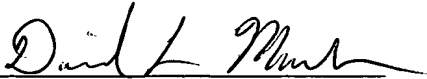
American Type Culture Collection is an International Depository Authority under the provisions of the Budapest Treaty.

All restrictions upon public access to the deposit will be waived should a U.S. Patent be issued citing the deposited biological material. While the American Type Culture Collection acknowledges that the deposited biological material was viable, should the culture die, be destroyed, or unviable samples cannot be dispensed during the effective term of the deposit, the Applicants will replace the deposited biological material.

Attached is a copy of American Type Culture Collection's Receipt issued on October 5, 2004, acknowledging the deposit of this biological material and the viability of the biological material.

Respectfully submitted,

Novartis  
Corporate Intellectual Property  
One Health Plaza, Building 104  
East Hanover, NJ 07936-1080  
(862) 778-7922

  
David L. Marks  
Attorney for Applicants  
Reg. No. 37,881

Date: October 21, 2004

# ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

**INTERNATIONAL FORM**

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.**

**To: (Name and Address of Depositor or Attorney)**

Novartis Animal Health US, Inc.  
Attn: Dr. Richard Harland, D.V.M.  
1447 140<sup>th</sup> Street  
Larchwood, IA 51241

**Deposited on Behalf of:** Novartis Animal Health US, Inc.

**Identification Reference by Depositor:**

Bovine Rotavirus, Animal Virus: 617-001  
Bovine Rotavirus, Animal Virus: 629-001  
Bovine Rotavirus, Animal Virus: 734-001

**Patent Deposit Designation**

PTA-5955  
PTA-5956  
PTA-5957

The deposits were accompanied by:    a scientific description, a proposed taxonomic description indicated above. The deposits were received May 6, 2004 by this International Depository Authority and have been accepted.

**AT YOUR REQUEST:**   X   We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested September 30, 2004. On that date, the cultures were viable.

**International Depository Authority:** American Type Culture Collection, Manassas, VA 20110-2209 USA.

**Signature of person having authority to represent ATCC:**

Marie Harris  
Marie Harris, Patent Specialist, ATCC Patent Depository

**Date:** October 5, 2004

cc: David Marks

Ref: Docket or Case No.: 33198



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Alexandria, VA 22313-1450

STATEMENT OF PUBLIC AVAILABILITY OF BIOLOGICAL MATERIAL

I, David L. Marks, Registration Number 37,881, am the duly appointed attorney of record for the above referenced patent application.

I, hereby state, that the biological material in the above referenced patent application are *Escherichia coli* strains B41, B42, B44, and B117 and have been deposited with American Type Culture Collection, 10801 University Boulevard, Manassas, VA 20109 on May 6, 2004. The ATCC Deposit Numbers are as follows:

*E. coli* strain B41 – ATCC Deposit Number PTA-5951

*E. coli* strain B42 – ATCC Deposit Number PTA-5952

*E. coli* strain B117 – ATCC Deposit Number PTA-5953

*E. coli* strain B44 – ATCC Deposit Number PTA-5954

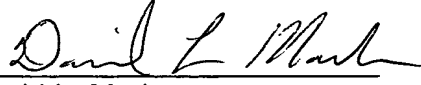
American Type Culture Collection is an International Depository Authority under the provisions of the Budapest Treaty.

All restrictions upon public access to the deposit will be waived should a U.S. Patent be issued citing the deposited biological material. While the American Type Culture Collection acknowledges that the deposited biological material was viable, should the culture die, be destroyed, or unviable samples cannot be dispensed during the effective term of the deposit, the Applicants will replace the deposited biological material.

Attached is a copy of American Type Culture Collection's Receipt issued on October 12, 2004, acknowledging the deposit of this biological material and the viability of the biological material.

Respectfully submitted,

Novartis  
Corporate Intellectual Property  
One Health Plaza, Building 104  
East Hanover, NJ 07936-1080  
(862) 778-7922  
Date: October 21, 2004

  
\_\_\_\_\_  
David L. Marks  
Attorney for Applicants  
Reg. No. 37,881



**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

**INTERNATIONAL FORM**

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
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**To: (Name and Address of Depositor or Attorney)**

Novartis Animal Health US, Inc.  
Attn: Dr. Richard Harland, D.V.M.  
1447 140<sup>th</sup> Street  
Larchwood, IA 51241

**Deposited on Behalf of:** Novartis Animal Health US, Inc.

**Identification Reference by Depositor:**

**Patent Deposit Designation**

Escherichia coli Serotype: 0101:K99,F41,Type 1: GL32 mx+1 030488	PTA-5951
Escherichia coli Serotype: 09:K35, K99: GL26 mx+1 2-9-83.	PTA-5952
Escherichia coli Serotype: 08:K85, K99: GL27 mx+1 2-11-83	PTA-5953
Escherichia coli Serotype: 09:K30,K99: GL25 mx+1 11/20/90	PTA-5954

The deposits were accompanied by:    a scientific description, a proposed taxonomic description indicated above. The deposits were received May 6, 2004 by this International Depository Authority and have been accepted.

**AT YOUR REQUEST:**   X   We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.


If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested May 17, 2004. On that date, the cultures were viable.

**International Depository Authority:** American Type Culture Collection, Manassas, VA 20110-2209 USA.

**Signature of person having authority to represent ATCC:**

  
Marie Harris, Patent Specialist, ATCC Patent Depository

**Date:** October 12, 2004

cc: David Marks  
Ref: Docket or Case No: 33198